



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301604

Complainant: MIDEA GROUP CO., LTD

Respondent: Chin Ee Wong

Domain Name: mideasmarthome.com

Registrar: Web Commerce Communications Limited dba WebNic.cc

1. Procedural History

On 27 December 2023, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Centre (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On 2 January 2024, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, Web Commerce Communications Limited dba WebNic.cc, a request for registrar verification in connection with the disputed domain name.

On 2 January 2024, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 5 January 2024, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the Complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar, Web Commerce Communications Limited dba WebNic.cc, of the

commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 26 January 2024, the ADNDRC Beijing Office notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the Complainant and the Respondent that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Mr. ZHAO Yun, the ADNDRC Beijing Office notified the parties on 29 January 2024 that the Panel in this case had been selected, with Mr. ZHAO Yun acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On 29 January 2024, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 12 February 2024.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

2. Factual Background

A. The Complainant

The Complainant in this case is MIDEA GROUP CO., LTD. The registered address is 26th to 28th floors, Block B, Midea Headquarters Building, No. 6 Midea Avenue, Beijiao Town, Shunde District, Foshan City, Guangdong Province, China. The authorized representative in this case is Liu, Shen & Associates.

B. The Respondent

The Respondent in this case is Chin Ee Wong. The registered address is 60-1, Jalan Temenggung 1/9 Bandar Mahkota Cheras, Kajang, Selangor, Malaysia.

The Respondent is the current registrant of the disputed domain name "mideasmarthome.com", which was registered on 30 October 2023 according to the WHOIS information. The registrar of the disputed domain name is Web Commerce Communications Limited dba WebNic.cc.

3. Parties' Contentions

A. The Complainant

(i) The disputed domain name is very similar to trademarks owned by the Complainant which is likely to cause confusion; and

First, the disputed domain name "mideasmarthome" consists of "midea" and "smarthome". "Midea" is the same as the Complainant's prior registration trademarks or the English parts of the prior registration trademarks, while "smarthome" refers to a convenient home setup where appliances and devices can be automatically controlled remotely from anywhere with an internet connection using a mobile or other networked device, which don't possess much distinctiveness. Considering that "midea" is an original word and has become very famous brand through the use and promotion of the Complainant, and "smarthome" doesn't possess much distinctiveness, when seeing the disputed domain name, the Internet users may think this domain name is registered by the Complainant to sell their own smart products. The disputed domain name is very similar to the Complainant's prior trademark registrations.

What's more, the Complainant has begun to use the trademark "Midea Smart Home" since 2018 and has filed trademark applications for "Midea Smart Home" in China on 14 December 2022, which is prior to the registration day of the disputed domain name. The Complainant's official website (<https://www.midea.com/us/smarthome>) is for managing smart-home-products. In this case, the disputed domain name is very likely to cause confusion among the internet users.

Last, before the registration date of the disputed domain name, the brand "MIDEA" has obtained high reputation around the world through the use of the Complainant.

The Complainant, founded in 1968, is a large comprehensive modern enterprise group focusing on household appliances and involved in real estate, logistics and other fields. The Complainant was listed on the Shenzhen Stock Exchange on 18 September 2013. The Complainant has two subsidiary listed companies, Tundra swan (SZ000418) and Welling Holdings (HK00382). In 1980, Midea officially entered the home appliance industry. At present, Midea Group employs 126,000 people in total, and owns more than 10 brands including Midea, Tundra swan, Welling, Hualing, Ande, and Meizhi. The Complainant has 15 domestic production bases in China and 5 foreign production bases in Vietnam, Egypt, Brazil, Argentina, and India.

In 1999, the Complainant publicly released the new English expression "Midea" through several media such as Xinhua News Agency, China Trade News, Securities Times, Hong Kong China News Agency, China Information Daily, Southern Metropolis Daily, etc. Afterwards, "Midea", as the main trademark of the opponent, has been promoted and used for more than 20 years, and has obtained high reputation. In the

Administrative Judgment (2012) YZXHCZ No. 1568 issued by the First Intermediate people's court of Beijing, it was determined that the trademark No. 1523735 "Midea", used in air conditioners, electric fans and other commodities, has reached a well-known state before 21 January 2004. In the Administrative Judgment No. (2019) Jingxing Zhong 3947 of the Beijing High Court, it was determined that the trademark No. 5478887 "Midea" has a high level of popularity in air conditioning and electric fan products and constitutes a well-known trademark. Due to size limit of the email, the Complainant hereby only submits a small part of the evidence of popularity.

Besides, the Complainant has been recognized as "Top 10 Excellent Independent Brands in Guangdong Province""Top 100 Private Enterprises in Guangdong Province""53rd among China's top 500 enterprise groups in 2008""32nd on the 2018 China Top 500 list"and other honor.

Considering the high reputation of the Complainant and the prior registered marks, the similarity between the prior registered marks and the disputed domain name, it will confuse the relevant public when seeing the disputed domain name. If the domain name is allowed to continue as a valid domain name, it will inevitably disrupt the market, cause confusion to the relevant public and damage the Complainant's trademark rights.

(ii) the Respondent has no rights or legitimate interests in the disputed domain name; and

The Complainant have searched the trademarks "mideasmarthom" and "mideasmarthome.com" in all classes in the database of CNIPA, the database of MyIPO and the Global Brand Database of WIPO. As a result, the Respondent does not have any rights or legitimate interests in the domain name.

(iii) the Respondent's domain name has been registered in bad faith.

First, based on the above introduction, the Complainant's "Midea" brand is very famous around the world. The Respondent knew or could not have been unaware of the Complainant's trademark when registering the disputed domain name, especially when the domain name is exactly the same as the Complainant's "Midea Smart Home" mark which has been previously used and applied for trademark registration. It's not a coincidence for the Respondent to register such an identical domain name. It's highly probable that the Respondent had the Complainant's mark "Midea" and "Midea Smart Home" in mind when registering the domain name.

Second, the dispute domain name has not been put into actual commercial use. Clicking on the "cgi-bin" button on the webpage of the disputed domain name will jump directly to the webpage showing that "Forbidden You don't have permission to access this resource. Additionally, a 403 Forbidden error was encountered while trying to use an ErrorDocument to handle the request". It indicates that the registration of disputed

domain name is not for actual usage, but to prevent the Complainant from reflecting the mark in a corresponding domain name. Or the Respondent is taking advantage of the Complainant's reputation in order to attract investors, which may be a fraud. Therefore, the disputed domain name is used in bad faith.

The Complainant requests that the disputed domain name should be transferred to the Complainant.

B. The Respondent

The Respondent failed to submit a Response within the specified time period.

4. Discussions and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the complainant shall prove the following three elements:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) The registrant has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) Circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) The respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

A. Identity or Confusing Similarity

The Complainant was established in 1968 conducting businesses in the major field of household appliances. The Evidence No. 2 (Trademark Registration Certificates and publications of the Complainant) shows that “midea” has been registered in Malaysia as a trademark since 1999 and in China since 2001; these registration dates are much earlier than the registration date of the disputed domain name (i.e. 30 October 2023). The Panel has no problem in finding that the Complainant enjoys the prior rights in the trademark “midea”.

The disputed domain name is “mideasmarthome.com”. As the suffix “.com” only indicates that the domain name is registered under this gTLD and is not distinctive, the main part of the disputed domain name consists of two sub-parts “midea” and “smarthome”. The first sub-part “midea” is the same as the Complainant’s trademark. The second sub-part “smarthome” is a generic English term “smart home”, and is not distinctive. Moreover, Evidence No. 3 (The Complainant’s prior use evidences for “Midea Smart Home”) shows that the Complainant has been using the term for business since 2018 and has filed trademark applications for “Midea Smart Home” in China in 2022, well before the registration of the disputed domain name. Accordingly, the combination of the Complainant’s trademark and a generic term as the main part of the disputed domain name cannot effectively differentiate from the disputed domain name from the trademark; on the contrary, such a combination strengthens its relationship with the Complainant due to the Complainant’s prior commercial use and trademark application of the term “Midea Smart Home”. The main part of the disputed domain name “mideasmarthome” is thus confusingly similar to the Complainant’s trademark “midea”.

The Panel therefore holds that the Complaint fulfills the condition provided in Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests of the Respondent

The Complainant contends that the Respondent does not have rights to or legitimate interests in the disputed domain name. The Complainant has never authorized the Respondent to use the trademarks or the domain name. The Complainant’s assertion is sufficient to establish a *prima facie* case under Policy 4 (a)(ii), thereby shifting the burden to the Respondent to present evidence of its rights or legitimate interests.

The Respondent has failed to show that the Respondent has any rights or legitimate interests in respect of the disputed domain name. The act of registering the disputed domain name does not automatically endow any legal rights or interests with the Respondent.

The Panel therefore finds that the Complaint fulfills the condition provided in Paragraph 4(a)(ii) of the Policy.

C. Bad Faith

It is to be noted that Paragraph 4(b) of the Policy provides a non-exhaustive list of examples of registration and use of a domain name in bad faith. In the current case, the Respondent has not made active use of the disputed domain name. This passive holding of a disputed domain name does not exclude the possibility of bad faith. The Panel will look into specific case scenarios in deciding on the existence of bad faith.

The Complainant first set up in China in 1968, has been using “midea” as its trademark since 1999. It has been listed on the Shenzhen Stock Exchange since 2013. The Complainant successfully registered the trademark “midea” in Malaysia as early as in 1999, a date much earlier than the registration date of the disputed domain name. Furthermore, Malaysia is exactly the country where the Respondent holds the registered address. Through years of use and promotion, the Complainant’s trademark “midea” has achieved a strong reputation.

Evidence No. 4 (The wards that the Complainant has obtained and the corresponding report) submitted by the Complainant shows that the Complainant and its trademark have been widely publicized and reported in various newspaper, news media, magazines and television programs. The trademark “midea” has been recognized as a well-known trademark by Chinese judgments, including the Administrative Judgment (2012) YZXHCZ No. 1568 by the First Intermediate People’s Court of Beijing and the Administrative Judgment No. (2019) Jingxing Zhong 3947 by Beijing High Court. Moreover, the Complainant has won many prizes and awards, including “Top 10 Excellent Independent Brands in Guangdong Province” “Top 100 Private Enterprises in Guangdong Province”, “Top 500 in Asian Brand”, “China’s Top 500 Most Valuable Brands” in the World Brand Summit, and “Fortune Global 500”. As such, the public has come to recognize and associate the Complainant’s trademark “midea” as originating from the Complainant and no other.

No evidence whatsoever has demonstrated any possible rights or legitimate interests that the Respondent may enjoy. The registration of the disputed domain name with “midea” (together with the term “smart home”, which has been used by the Complainant for business and trademark application as indicated in Evidence No. 3) as the main part cannot be explained simply by coincidence.

The above facts, adding together, lead to the only conclusion that the Respondent is aware or should have been aware of the existence of the Complainant and its trademark. As such, the act of registering the disputed domain name *per se* has constituted bad faith.

Accordingly, the Panel finds that the Complaint satisfies the condition provided in Paragraph 4(a)(iii) of the Policy.

5. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name “mideasmarthome.com” should be transferred to the Complainant MIDEA GROUP CO., LTD.

A handwritten signature in black ink, appearing to be the Chinese characters '赵云' (Zhao Yun), is centered on a light gray grid background.

ZHAO Yun

Dated: 12 February 2024